entitled to be indemnified only for damages caused to him by the restraint imposed, and not for the cost of ridding himself of the restraint. *Oliphant* v. *Mansfield,* 36 Ark. 191; *Wood* v. *State,* 66 Md. 61; *Sensenig* v. *Parry,* 113 Pa. St. 115; *Jones* v. *Rosedale Street Ry. Co.,* 75 Tex. 382; and the Federal courts take the latter view. *Lindeberg* v. *Howard,* 146 Fed. 467; *Sullivan* v. *Cartier,* 147 Fed. 222, 77 C. C. A. 448; *Oelrichs* v. *Spain,* '15 Wall, 211. Hence in an action in a State court on an injunction bond given in a Federal court the State court is bound to follow the rule of the Federal courts that counsel fees are not recoverable. *Tullock* v. *Mulvane,* 184 U. S. 497, 22 Sup. Ct. 372. Where the injunction is auxiliary to some other cause of action, all courts agree that recovery is limited to the expense rendered necessary in procuring dissolution of the injunction, and does not include expense caused by defenses to the main suit. *Chicago Veneered Door Co.* v. *Parks,* 79 Ill. App. 188; *Randall* v. *Carpenter,* 88 N. Y. 293; *Lamb* v. *Shaw,* 43 Minn. 507. It is held that there can be no recovery for fees expended in an unsuccessful attempt to dissolve an injunction, though it be finally determined that the injunction was wrongfully issued. *Pollock* v. *Whipple,* 57 Neb. 82. As to recovery of fees incident to appeal in suits for dissolution of injunction, there is good authority that such may be had, contrary to the holding on the second proposition in the principal case. *Jesse French Piano etc. Co.* v. *Porter,*134 Ala. 302, 32 South. 678; *Lambert* v *Haskell,* 80 Cal. 611, 22 Pac. 327; *Ryan* v. *Anderson,* 25 Ill. 330. The St. Louis Court of Appeals held in *Neiser* v. *Thomas,* 46 Mo. App. 47 that a supersedeas bond being given and the injunction not continuing in force pending appeal, there could be no recovery for fees expended on the appeal. The Supreme Court of Missouri takes this view in the principal case, saying that the reason for allowance of fees in getting rid of a temporary injunction in the lower court is the existence and operative force of the restraining orders wrongfully obtained, and when those orders are lifted below, the reason no longer operates in favor of subsequent services of counsel. *Elwood Mfg. Co.* v. *Rankin,* 70 Ia. 403, 30 N. W. 677; *Barre Water Co.* v. *Carnes,* 68 Vt. 23; HIGH, INJUNCTIONS, Ed. 4 § 1687.

LIBEL—RIGHT OF PRIVACY—PUBLICATION OF PHOTOGRAPH.—The defendant newspaper published a photograph of the plaintiff to add interest to an article which stated that her father was charged with a crime and would be arrested. *Held,* publication of the photograph was not actionable as statutory libel or as a violation of any legal right of privacy. *Hillman* v. *Star Pub. Co.* (Wash. 1911) 117 Pac. 594.

Under the Washington code, it is a libel "to expose any living person to hatred, contempt, ridicule or obloquy, or to deprive him of the benefit of public confidence or social intercourse." To print a picture of a prominent millionaire's daughter as part of a story that her father was indicted and would be arrested for a penitentiary offense, would not, holds the Washington court, "tend to deprive her of social intercourse among right-thinking people, but would rather tend to excite pity for her." It is submitted that the psychological ratiocination of the court will not bear close scrutiny. Newspaper stories with a "heart throb" do not always invoke pity and must be

construed with care. See *Moffatt* v. *Cauldwell*, 3 Hun 26; *Ball* v. *The Tribune Co.*, 123 Ill. App. 235. The principal case also denies the existence of a right of privacy. "not so much because a primary right may not exist, but because, in the absence of statute, no fixed line between public and private character can be drawn." This decision evenly divides the courts that have considered this principle of an "inviolate personality." *Roberson* v. *Rochester Folding Box Co.*, 171 N. Y. 538, 64 N. E. 442, 59 L. R. A. 478, 89 Am. St. Rep. 828; *Henry* v. *Cherry*, 30 R. I. 13, 73 Atl. 97, 24 L. R. A. (N. S.) 991; *Atkinson* v. *Doherty*, 121 Mich. 372, 80 N. W. 285, 46 L. R. A. 219, 80 Am. St. Rep. 507, and the principal case deny such a right; *Contra*: *Pavesich* v. *New Eng. Life Ins. Co.*, 122 Ga. 190, 50 S. E. 68, 69 L. R. A. 101, 106 Am. St. Rep. 104; *Edison* v *Edison Mfg. Co.*, 73 N. J. Eq. 136, 67 Atl. 392; *Foster-Milburn Co.* v. *Chinn*, 134 Ky. 424, 120 S. W. 364; *Munden* v. *Harris*, (Mo. App.) 134 S. W. 1076; see 9 MICH. LAW REV. 627. The subject is modern, see 4 HARV. L. REV. 205; and still in the process of formative growth. See 3 MICH. L. REV. 559, 8 MICH. L. REV. 221. Most of the cases involve the use of an individual's picture for purposes of commercial advertisement, and the few statutes passed have been so restricted. See Note 24 L. R. A (N. S.) 991. The facts of the principal case broaden the scope of the question. In an age of sensational journalism, many cases not concerned with advertising are sure to arise. The issue is particularly fine when the publication borders on the libellous. *Morrison* v. *Smith*, 177 N. Y. 366, 69 N. E. 725. But the basis of the decision of the Washington court seems unsound. Naturally, there is no violation of personal privacy when the individual is a public character. *Corliss* v. *Walker*, 64 Fed. 280, 31 L. R. A. 283. But though the line between a public and a private character is not a fixed and absolute one, its determination in the case before the court presents itself as a proper subject for judicial decision. It would seem that in the principal case the distinction would not have been difficult to make. The demands of yellow journalism hardly should be the final test of legitimate legal publicity.

LIBEL AND SLANDER—WORDS ACTIONABLE PER SE—SPECIAL DAMAGES.—Defendant said of plaintiff, a white man, "W is a damn negro and his mother was a mulatto." Plaintiff claimed the words were actionable *per se*, but alleged as special damages the loss of the company of a young lady with whom he had been going, and of association with the best people of the neighborhood. *Held*, the charge was not actionable *per se*, and as the special damages alleged showed no pecuniary loss or loss of marriage, plaintiff cannot recover. *Williams* v. *Riddle* (Ky., 1911), 140 S. W. 661.

Unless words of oral defamation fall under the artificial and rigid classification generally accepted, see *Pollard* v. *Lyon*, 91 U. S. 225, 23 L. Ed. 308, they are not actionable *per se*, although vituperative and insulting,—cases cited in ADDISON, TORTS, Ed. 7, p. 38. To publish that a white man is a negro has been held libel *per se* in recent cases. *Upton* v. *Times-Democrat Pub. Co.*, 104 La. 141, 28 South. 970; *Flood* v. *News & Courier Co.*, 71 S. C. 112, 50 S. E. 637; 4 AM. & ENG. ANN. CAS., 685 (1905), but the charge orally made is not so construed. *Johnston* v. *Brown*, 4 Cranch, C. C. 235, Fed Cas.